

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

THE BRIGHAM AND WOMEN'S HOSPITAL,)
INC., NPS PHARMACEUTICALS, INC. and)
AMGEN INC.,)

Plaintiffs,

V.

C.A. No.: 08-464 (HB)

TEVA PHARMACEUTICALS USA, INC.,
TEVA PHARMACEUTICAL INDUSTRIES
LTD., BARR LABORATORIES, INC.,

Defendants.

**PLAINTIFFS' ANSWER TO DEFENDANT
TEVA'S COUNTERCLAIMS**

Plaintiffs The Brigham and Women's Hospital, Inc. ("BWH"), NPS Pharmaceuticals, Inc. ("NPS") and Amgen Inc. ("Amgen") (collectively "Plaintiffs") respond to the numbered paragraphs of the Counterclaims filed by Defendants Teva Pharmaceuticals USA, Inc. ("Teva USA") and Teva Pharmaceutical Industries Ltd. ("Teva Ltd.") (collectively "Teva") as follows:

ANSWER TO COUNTERCLAIMS

1. Plaintiffs admit the allegations of paragraph 1.
2. Plaintiffs admit that Teva purports to state counterclaims pursuant to the patent laws of the United States, 35 U.S.C. § 1, *et seq.* and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, but deny that there is any factual or legal basis for such Counterclaims or that Teva is entitled to any relief.
3. Plaintiffs admit the allegations of paragraph 3 of Teva's Counterclaims with respect to this action.

4. Plaintiffs admit the allegations of paragraph 4 of Teva's Counterclaims with respect to this action.

5. Plaintiffs admit the allegations of paragraph 5 of Teva's Counterclaims with respect to this action.

COUNT ONE

6. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

7. Plaintiffs deny the allegations of paragraph 7.

COUNT TWO

8. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

9. Plaintiffs deny the allegations of paragraph 9.

COUNT THREE

10. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

11. Plaintiffs deny the allegations of paragraph 11.

COUNT FOUR

12. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

13. Plaintiffs are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 relating to "the '132 patent," and therefore deny them. Plaintiffs further deny the allegations in paragraph 13 to the extent they were meant to relate to the '003 patent.

COUNT FIVE

14. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

15. Plaintiffs deny the allegations of paragraph 15.

COUNT SIX

16. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

17. Plaintiffs deny the allegations of paragraph 17.

COUNT SEVEN

18. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

19. Plaintiffs deny the allegations of paragraph 19.

COUNT EIGHT

20. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

21. Plaintiffs deny the allegations of paragraph 21.

COUNT NINE

22. Plaintiffs repeat and incorporate by reference their reply to paragraphs 1-5 of the Counterclaims.

23. Plaintiffs deny the allegations of paragraph 23.

PRAYER FOR RELIEF

Plaintiffs deny that Teva is entitled to any relief, either as prayed for in their Counterclaims, or otherwise.

Plaintiffs further deny each allegation contained in Teva's Counterclaims that was not specifically admitted, denied or otherwise responded to in this Reply to Defendant Teva's Answer and Counterclaims.

WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and against Defendant Teva and that this Court:

- A. dismiss Teva's Counterclaims with prejudice;
- B. grant Plaintiffs the relief they request in their Complaint; and
- C. award Plaintiffs such further and additional relief as this Court deems just and proper.

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September 10, 2008

CERTIFICATE OF SERVICE

I hereby certify that on September 10, 2008 I electronically filed the foregoing with the Clerk of the Court using CM/ECF, which will send notification of such filing to:

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I further certify that I caused to be served copies of the foregoing document on September 10, 2008 upon the following in the manner indicated:

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